

UNITED STATES COURT OF APPEALS

FEB 19 1999

TENTH CIRCUIT

PATRICK FISHER
Clerk

KYLE WILSON FORNEY,

Plaintiff - Appellant,

v.

STATE OF OKLAHOMA; JOHN
DOE, Assistant District Attorney;
JANE DOE, Assistant District
Attorney,

Defendants - Appellees.

No. 98-6334
(D. Ct. No. CV-98-499-T)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **TACHA, McKAY**, and **MURPHY**, Circuit Judges.

After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

This appeal is from an order of the district court dismissing plaintiff's pro

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

se complaint filed pursuant to 42 U.S.C. § 1983 for failure to state a claim.

Plaintiff argues that the district court erred in finding that his complaint did not allege a violation of his civil rights and was frivolous.

Plaintiff filed this action pursuant to 42 U.S.C. § 1983, alleging various violations of his civil rights in connection with a pending prosecution for the crime of false declaration to a pawn broker. Plaintiff is apparently a pre-trial detainee in the Oklahoma County Detention Center. Insofar as the record in this case shows, plaintiff has not yet been tried on that pending prosecution. The magistrate judge clearly construed the complaint liberally and reviewed thoroughly the allegations in plaintiff's pro se complaint. We agree with the district court that the claims asserted lack an arguable basis in law or fact and fail to state a claim upon which relief may be granted. See 28 U.S.C. § 1915A(b)(1). We therefore dismiss the petition and deny the motion for leave to proceed in forma pauperis. The appeal is dismissed.

ENTERED FOR THE COURT,

Deanell Reece Tacha
Circuit Judge